

Congress of the United States

Washington, DC 20515

July 25, 2023

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator Regan,

We commend your strong efforts to address exposure to per- and polyfluoroalkyl substances (PFAS). PFAS have prompted widespread public concern due to their serious health effects, persistence, and pervasive accumulation in our bodies and the environment. The Environmental Protection Agency (EPA) 2021-2024 PFAS Strategic Roadmap commits to three central priorities: researching the impacts and health effects of PFAS, restricting PFAS at the source, and remediating PFAS pollution. Furthermore, as people of color and low-income Americans are particularly likely to have high levels of PFAS in their drinking water, we appreciate that the Roadmap also focuses on ensuring disadvantaged communities can equitably access solutions.

However, the presence of PFAS in products used by workers and consumers is an important source of exposure that needs further attention at the federal level. EPA is mandated by the Toxic Substances Control Act (TSCA) to address the risks of new PFAS and significant new uses of existing PFAS. The TSCA program is now facing a major test of this authority from the submission of nine Significant New Use Notices (SNUNs) by Inhance Technologies, a Texas company that fluorinates plastic containers.

The Inhance fluorination process results in the formation of at least 13 individual PFAS, nine of which are long-chain perfluoroalkyl carboxylate (LCPFAC) substances.¹ LCPFACs are subject to a 2020 Significant New Use Rule (SNUR) promulgated by EPA. Among these LCPFACs is perfluorooctanoic acid (PFOA), a likely carcinogen for which EPA recently said there is no safe level in drinking water.

It is our understanding that Inhance fluorinates over 200 million containers a year, which are used to package numerous consumer and industrial products. Testing shows that the PFAS leach from containers into their contents, creating multiple pathways for direct human exposure.² The Inhance facilities where the containers are fluorinated—as well as plastic recycling facilities—also carry significant risks of exposing workers and nearby communities to PFAS.

¹ Significant New Use Notices (SNUNs) SN 23-0002 through 0006 and 23-0008 through –11, received by USEPA December 30, 2022, 88 Fed. Reg. (10320 February 17, 2023).

² Whitehead, H. D., & Peaslee, G. F. (2023). Directly Fluorinated Containers as a Source of Perfluoroalkyl Carboxylic Acids. *Environmental Science & Technology Letters*.
<https://pubs.acs.org/action/showCitFormats?doi=10.1021/acs.estlett.3c00083&ref=pdf>.

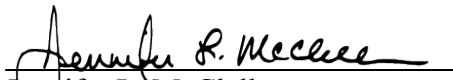
The far-reaching public health implications of the Inhance SNUNs require EPA to conduct a rigorous, comprehensive, and transparent assessment of the risks of PFAS in fluorinated containers. It would be a serious setback for public health if an EPA risk assessment were to be conducted with limited public engagement and incomplete evidence, resulting in continued PFAS formation during fluorination and lack of protection of the exposed population. Health and safety data provided by Inhance must be peer reviewed by independent experts and made publicly available, consistent with the requirements of Section 14(b)(2) of TSCA.

In order to ensure that communities are informed and able to engage with reviews of new chemicals that may affect their health, we ask EPA to answer the following questions before September 1, 2023.

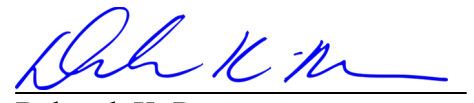
1. How will EPA ensure that its SNUN reviews are informed by the input of leading PFAS experts in other parts of the Agency as well as knowledgeable independent scientists?
2. Will EPA conduct an independent peer review of the Agency's risk assessment for the SNUNs? If not, why not?
3. Will EPA's review of the SNUNs consider only the risks of individual LCPFACs or will it recognize the combined toxicity of PFAS to which people are co-exposed from fluorinated containers, consistent with the latest science developed by the Office of Water?
4. Will EPA's risk assessment consider the contribution to overall risk of short-chain perfluoroalkyl carboxylates formed during fluorination that raise health concerns but are not LCPFACs subject to the SNUR?
5. Although the comment deadline on the SNUNs has passed, what process will EPA provide for enabling the public to submit additional information? Additionally, will EPA meet with commenters and experts to make sure their data and analysis are fully considered by agency reviewers?
6. Is EPA expeditiously reviewing redacted portions of the SNUNs in order to maximize disclosure to the public and will EPA provide a further opportunity to comment once this information is disclosed?
7. How will the TSCA review of the SNUNs further EPA's PFAS Strategy and the Agency's policy of reducing and preventing exposure to PFAS wherever possible?
8. Will EPA's review of the SNUNs consider the risks to workers and communities near fluorination facilities, including considering cumulative impacts where applicable?
9. How does EPA interpret its authority in Section 5(f) of TSCA to ban significant new risks of chemicals that present unreasonable risks and what factors would go into deciding whether to ban PFAS formed during fluorination?

Thank you in advance for addressing these questions. We look forward to continued engagement to protect the public from the harmful impacts of PFAS.

Sincerely,




Jennifer L. McClellan
Member of Congress



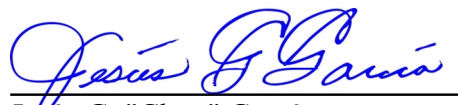
Deborah K. Ross
Member of Congress



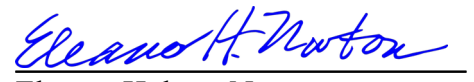
Raúl M. Grijalva
Member of Congress



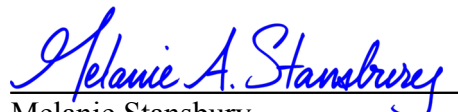
Barbara Lee
Member of Congress



Jesús G. "Chuy" García
Member of Congress



Eleanor Holmes Norton
Member of Congress




Melanie Stansbury
Member of Congress



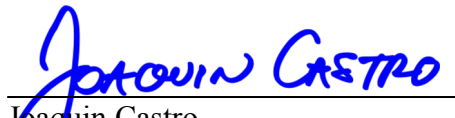
Nancy Mace
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